THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.7649, 8486, 8491 & 8493 of 2002

COMMON ORDER:

W.P.No.7649 of 2002

This writ petition is filed questioning the order passed in C.T.A.No.140 of 1998 dated 19.1.2002 on the file of the Cooperative Tribunal, Hyderabad, wherein the order dated 28.5.1998 passed by the second respondent-Arbitrator was confirmed.

The petitioner is admittedly a member of the third respondent society. He has obtained loan as member of the third respondent society from the first respondent-Scheduled Bank. When he fell in arrears, a dispute was raised under Section 61 of the A.P. Cooperative Societies Act, 1964 and in pursuance of the same, the second respondent-Arbitrator passed award in favour of the Bank. Aggrieved by the same, petitioner carried the matter in appeal before the Cooperative Tribunal, Hyderabad. The Cooperative Tribunal slightly modified the award to the extent of reducing the interest rate from 24% to 6% and confirmed the rest of the award passed by the second respondent-Arbitrator. Aggrieved by the same, the present writ petition is filed.

The learned counsel appearing for petitioner strenuously contended that the second respondent has no jurisdiction to entertain any dispute as raised under Section 61 of the Act since the third respondent society has not advanced any loans to the petitioner. Further, since the first respondent Bank is a foreign bank, the transaction between the petitioner and the first respondent cannot be taken up by the second respondent. Apart from this, the very claim is barred by limitation under the provisions of Limitation Act.

There is no necessity of going into all the details.

The Cooperative Tribunal while considering the aspect of jurisdiction, held that the documents executed by the petitioner in favour of first respondent-Bank as per the financial guarantee document, the borrowing of

loan by the petitioner was through the third respondent society, therefore, the first respondent has rightly filed the reference against the petitioner by making the society as a party and the Arbitrator has rightly passed award against the petitioner. However, these facts are not much in dispute.

The term 'financing bank' is defined under Section 2(f) of the Act, which reads as under:

> 'Financing Bank' means a society, the main object of which is to assist any affiliated or other society by giving loans or advancing moneys; and includes any scheduled bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) and such other body corporate or financial institution as may be notified by the Government from time to time, which gives financial or other aid to a society".

The definition under section 2(f) read with Section 61 of the Act would make it abundantly clear that the first respondent is entitled to raise the dispute under Section 61 of the Act in the nature of transaction between the parties through the third respondent society.

In so far as limitation aspect is concerned, the Tribunal held that the petitioner, as per clause (3) of the promissory note, undertook that if any two equated monthly instalments are overdue, the entire loan outstanding along with interest and any other charges would fall due without any requirement for any notice from the bank. In the present case, the last equated monthly instalment was paid on 1.12.1994, therefore, as per clause 3, the entire loan amount outstanding along with the interest fell overdue on 1.2.1995. Since the reference was made on 16.1.1998, the same is within the time of limitation.

I am of the opinion that the award passed by the second respondent-Arbitrator as confirmed by the Cooperative Tribunal does not suffer from any illegality calling for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merit and liable to be dismissed and accordingly dismissed. No order as to costs.

For the reasons stated above, these writ petitions are also liable to be dismissed and they are accordingly dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 22.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

22.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.7649, 8486, 8491 & 8493 of 2002

Date: 22nd September, 2006

Between:

B.Asheervadam .. Petitioner in W.P.No.7649/02

S.Krishna .. Petitioner in W.P.No.8486/02

P.B.Dasarath .. Petitioner in W.P.No.8491/02

M.C.Reddappa .. Petitioner in W.P.No.7649/02

And

M/s CITI Bank, rep. by its Manager,
Branch Office, 1st floor, Shakti Towers,
766, Anna Salai, Chennai & others.

.. Respondents